

Message Text

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ORIGIN EB-08

INFO OCT-01 ARA-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15
NSCE-00 PM-05 H-01 SP-02 SSO-00 INRE-00 /057 R

DRAFTED BY EB/TRA:JRATWOOD:VLV
APPROVED BY EB/TRA:JRATWOOD
ARA/AND/P - DKEMP
CAB - FMURPHY (SUB)
DOT - VFORT (SUB)
-----074940 262149Z /13
O 262110Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY LIMA IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, PE

SUBJECT: CIVAIR: USG-GOP TALKS

REF: LIMA 6577

1. AMBASSADOR REQUESTED TO DELIVER FOLLOWING NOTE TO
FOREIGN MINISTER AND TO EMPHASIZE NEED FOR SOME FLEXIBILITY
IN ATTITUDES OF PERUVIAN AUTHORITIES IF CONFRONTATION (WITH
CONCOMITANT DAMAGES TO US-PERU RELATIONS AND FINANCIAL LOSS
TO AIRLINES OF BOTH SIDES) IS TO BE AVOIDED. US AGAIN
URGES THAT GOP RECONSIDER ITS NEGOTIATING POSITION, SUCH
THAT NEGOTIATIONS CAN RESUME. US HAS OFFERED TWO COMPRO-
MISES ON ISSUE OF A PRIORI CONTROLS (AS WELL AS OFFERING
OTHER OPPORTUNITIES TO PERU AIRLINES), AND YET PERU DEL HAS
NOT MOVED ONE INCH. IN ANY EVENT, FOR THE NEAR TERM BOTH
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SIDES MUST TAKE LIBERAL ATTITUDE IN COMING MONTHS TO AVOID
CONFRONTATION AND ESCALATING COUNTERMEASURES. AMBASSADOR
COULD POINT OUT THAT AEROPERU'S WIDELY PUBLICIZED INITIA-
TIVES TO SECURE NEW MOMENTUM IN US TOURIST MARKET (NEW
AIRPLANES, CHARTERS, AND FARES) WOULD INEVITABLY BE
ENDANGERED IF PERUVIAN AERONAUTICAL AUTHORITIES CARRY OUT
THEIR ANNOUNCED INTENTION OF CONTINUING TO IMPOSE SEVERE

(AND IN OUR JUDGMENT IMPROPER UNDER THE AGREEMENT) RESTRICTIONS ON US AIRLINES.

2. SUGGESTED TEXT OF THE DIPLOMATIC NOTE IS AS FOLLOWS:

QUOTE: ... AND HAS THE HONOR TO REFER TO THE UNITED STATES-PERU AIR TRANSPORT SERVICES AGREEMENT OF DECEMBER 27, 1946, AS AMENDED; TO THE JULY 7, 1975 UNDERSTANDING WHICH EXPIRED ON JULY 7, 1978; AND TO THE MEMORANDUM OF CONSULTATIONS OF JULY 6, 1978 REGARDING THE JUNE 28-JULY 6, 1978 AIR TRANSPORT NEGOTIATIONS HELD IN LIMA.

AT THE CONCLUSION OF THE NEGOTIATIONS REFERRED TO ABOVE, SIGNIFICANT PROGRESS HAD BEEN MADE REGARDING SEVERAL ASPECTS OF OUR BILATERAL AVIATION RELATIONS, SUCH AS LOW FARES AND CHARTER SERVICES. HOWEVER, NO AGREEMENT WAS POSSIBLE IN VIEW OF THE DIFFERENCES WITH RESPECT TO THE ISSUE OF CAPACITY AND FREQUENCY DETERMINATION, WHICH IS OF PARAMOUNT IMPORTANCE TO THE UNITED STATES GOVERNMENT. SINCE WE ARE INFORMED THAT THE PERUVIAN DELEGATION'S POSITION ON CAPACITY AND FREQUENCY HAS NOT CHANGED, THE UNITED STATES AUTHORITIES BELIEVE, AND WE UNDERSTAND THAT THE PERUVIAN AUTHORITIES AGREE, THAT A FURTHER ROUND OF NEGOTIATIONS AT THIS TIME WOULD NOT BE PRODUCTIVE.

AT THE EXPIRATION OF THE THIRTY-DAY PERIOD REFERRED TO IN LIMITED OFFICIAL USE

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THE ABOVE-NAMED MEMORANDUM OF CONSULTATIONS, BILATERAL AIR TRANSPORT RELATIONS BETWEEN OUR TWO COUNTRIES WILL BE GOVERNED ONCE AGAIN BY THE 1946 AIR TRANSPORT SERVICES AGREEMENT, INCLUDING THE ROUTE SCHEDULE AND OTHER AMENDMENTS SPECIFIED IN THE 1966 AMENDMENT THERETO. THE PROVISIONS OF THE 1975 UNDERSTANDING WILL HAVE NO FURTHER FORCE OR CONSEQUENCE. THE EMBASSY WISHES TO REMIND THE GOVERNMENT OF PERU THAT THE UNITED STATES AUTHORITIES INTERPRET THE 1946 AGREEMENT AND ITS AMENDMENTS AS PERMITTING THE DESIGNATED AIRLINES OF BOTH COUNTRIES TO INTRODUCE, WITHOUT HINDRANCE BY THE RESPECTIVE GOVERNMENT AUTHORITIES, CHANGES IN CAPACITY, FREQUENCIES OF FLIGHTS, OR AIRCRAFT TYPES, SUBJECT TO A POSTERIORI REVIEW BY THE TWO GOVERNMENTS UNDER THE PRINCIPLES OF THE ANNEX TO THE 1946 AGREEMENT. THE EMBASSY RECOGNIZES THAT THE PERUVIAN AUTHORITIES DIFFER WITH THE ABOVE INTERPRETATION, AND HAVE ASSERTED A RIGHT TO APPROVE OR DISAPPROVE SUCH CHANGES UNILATERALLY ON AN A PRIORI BASIS.

THE ABOVE DIFFERENCES NEED NOT AFFECT ADVERSELY AIRLINE OPERATIONS BETWEEN THE TWO COUNTRIES IN THE IMMEDIATE FUTURE, PROVIDED EACH SIDE IMPLEMENTS ITS INTERPRETATION

OF THE AGREEMENT IN A LIBERAL AND PROGRESSIVE MANNER. IN THIS REGARD, THE EMBASSY SINCERELY HOPES THAT THE PERUVIAN AUTHORITIES WILL NOT UNDERTAKE TO IMPOSE RESTRICTIVE MEASURES ON THE OPERATIONS OF US AIRLINES, WITH THE

INEVITABLE CONSEQUENCE OF RECIPROCAL ACTIONS BY THE UNITED STATES AUTHORITIES. IN PARTICULAR, WE CAN ANTICIPATE ONLY SERIOUS DISCORD IF THE PERUVIAN AUTHORITIES WERE TO FAIL TO APPROVE THE PROPOSED BRANIFF OPERATION BETWEEN DALLAS/FORT WORTH AND LIMA VIA INTERMEDIATE POINTS SCHEDULED TO BEGIN AUGUST 15 OR OTHER REASONABLE INCREASES IN FREQUENCIES THAT MAY BE PROPOSED. THE UNITED STATES, IN TURN, IS PREPARED TO BE LIBERAL IN ITS APPLICATION OF THE AGREEMENT AND IN PASSING UPON OTHER REQUESTS OF PERUVIAN AIRLINES LIMITED OFFICIAL USE

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FOR OPERATIONS NOT COVERED BY THE AGREEMENT.

AS FOR THE LONGER-TERM FUTURE OF AIR TRANSPORT RELATIONS BETWEEN OUR TWO COUNTRIES, THE UNITED STATES GOVERNMENT IS READY TO SEEK A NEGOTIATED RESOLUTION OF OUTSTANDING DIFFERENCES ON A BASIS FAVORABLE TO THE TRAVELING PUBLIC, SHIPPERS, THE TRAVEL INDUSTRY, AND THE AIRLINES OF BOTH OF OUR COUNTRIES. THE UNITED STATES AUTHORITIES BELIEVE THAT THE BEST PROSPECTS FOR A NEGOTIATED SETTLEMENT LIE IN AN EXPANSION-ORIENTED AGREEMENT WHICH WOULD PROVIDE OPPORTUNITIES FOR, RATHER THAN IMPOSE RESTRICTIONS ON, THE AIRLINES OF BOTH OF OUR COUNTRIES. WE HOPE THAT NEGOTIATIONS ON THIS BASIS CAN BE REOPENED IN THE NEAR FUTURE. COMPLIMENTARY CLOSE) UNQUOTE.

3. EMBASSY REQUESTED TO KEEP DEPARTMENT ADVISED ON LIKELY TIMING OF AMBASSADOR'S MEETING WITH FOREIGN MINISTER. VARIOUS CONTACTS BETWEEN DEPARTMENT AND PERU EMBASSY IN WASHINGTON WILL, IF POSSIBLE, BE COORDINATED. WE SUGGEST, HOWEVER, THAT AMBASSADOR RAISE ISSUE WITH FOREIGN MINISTER SOONEST.

4. RE PARA 2 OF REFTTEL, DEPARTMENT SUGGESTS THAT STEIN ADVISE SANCHEZ AGAIN THAT US REJECTS PERUVIAN SUGGESTION THAT TWO DELS HAD AGREED IN LIMA THAT PROVISIONS OF 1975 UNDERSTANDING WOULD BE ENFORCED INDEFINITELY (SEE APPROPRIATE LANGUAGE IN ABOVE NOTE). THERE WAS NO SUCH AGREEMENT, AND JULY MEMORANDUM OF CONSULTATIONS EXPLICITLY STATES THAT 1975 UNDERSTANDING WOULD EXPIRE IN JULY AND THAT EXTENSION OF PERMIT RESTRICTIONS WOULD BE FOR 30 DAYS

ONLY. USDEL CHAIRMAN TOLD PERUDEL SEVERAL TIMES AT LAST SESSION THAT US WOULD ACCEPT EXTENSION OF STATUS QUO FOR LIMITED OFFICIAL USE

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30 DAYS ONLY, REGARDLESS OF WHETHER LONG-TERM AGREEMENT WAS REACHED. USDEL ALSO MENTIONED THAT BRANIFF WOULD BE FILING FOR NEW SERVICE (NOT PERMITTED BY 1975 UNDERSTANDING) TO BE EFFECTIVE AUGUST 15.

5. RE PARA 4 OF REFTTEL, DEPARTMENT IS ADVISED BY CAB THAT AEROPERU REQUESTS WERE IN TERMS OF EXTRA SECTIONS OF SCHEDULED OPERATIONS AND NOT AS CHARTERS. CAB STAFF IS REVIEWING ISSUE WITH AEROPERU COUNSEL IN WASHINGTON SO AS TO CLEAR UP ISSUE AND PROPER FILING PROCEDURES FOR FUTURE FLIGHTS. ADDITIONALLY, PERU AUTHORITIES SHOULD NOT ASSUME THAT LIBERAL US ATTITUDE TOWARDS PERUVIAN AIRLINES' CHARTER REQUESTS WILL CONTINUE IF BRANIFF (OR US CHARTER) OPERATIONS ARE HINDERED.

6. DEPARTMENT HAS RECEIVED INQUIRIES FROM LOCKHEED ON STATUS OF NEGOTIATIONS, SINCE LOCKHEED IS CONCERNED THAT US-PERU TALKS MAY AFFECT AEROPERU'S ABILITY TO PAY FOR AIRCRAFT WHICH MIGHT BE SOLD BY LOCKHEED. LOCKHEED HAS BEEN KEPT INFORMED. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE188949
Document Source: CORE
Document Unique ID: 00
Drafter: JRATWOOD:VLV
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780307-0137
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780717/aaaaaonm.tel
Line Count: 195
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 0bef576c-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 LIMA 6577
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1876892
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: USG-GOP TALKS
TAGS: EAIR, PE
To: LIMA
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/0bef576c-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014